



**CITY OF SUNNYVALE  
REPORT  
Planning Commission**

**June 28, 2004**

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**SUBJECT:**        **2004-0306 – Yvonne E. Jacobson** [Applicant]: Application for a 159,999 square foot site located at **707, 711 and (no address) South Mathilda Avenue** in a Highway Business, El Camino Real Precise Plan (C2-ECR) Zoning District (APNs: 201-22-009, -010, and -012) and **(no address) South Mathilda Avenue** in a Public Facilities (PF) Zoning District (APN 201-35-005).

Resolution        ANNEXATION OF LAND TO THE CITY;

Resolution        CANCELLATION OF WILLIAMSON ACT, and  
DIS-ESTABLISHMENT OF AN AGRICULTURAL PRESERVE;

Motion            Special Development Permit to allow a 14,940 square foot commercial building and 36 townhomes;

Motion            Tentative Map to subdivide three lots (APNs: 201-22-012, 201-35-005 and adjusted 201-22-010) into 36 townhome lots on one common lot.

**REPORT IN BRIEF**

**Existing Site Conditions**        A gas station, a single-family house and an orchard.

**Surrounding Land Uses**

North	Located across West El Camino Real, the County Court House and City Hall campus (Public Facility).
South	Located across Tennis Center Lane and parking lot, the Sunnyvale Municipal Tennis Center, Las Palmas Park (Public Facility), and an agricultural orchard.
East	Located across South Mathilda Avenue, a commercial center (Cherry Orchard) and apartments (C-2/PD).
West	Auto dealership and Commercial General Business (C-2/PD), and Low-Medium Density townhouse style residential development (R-2/PD).

**Issues**

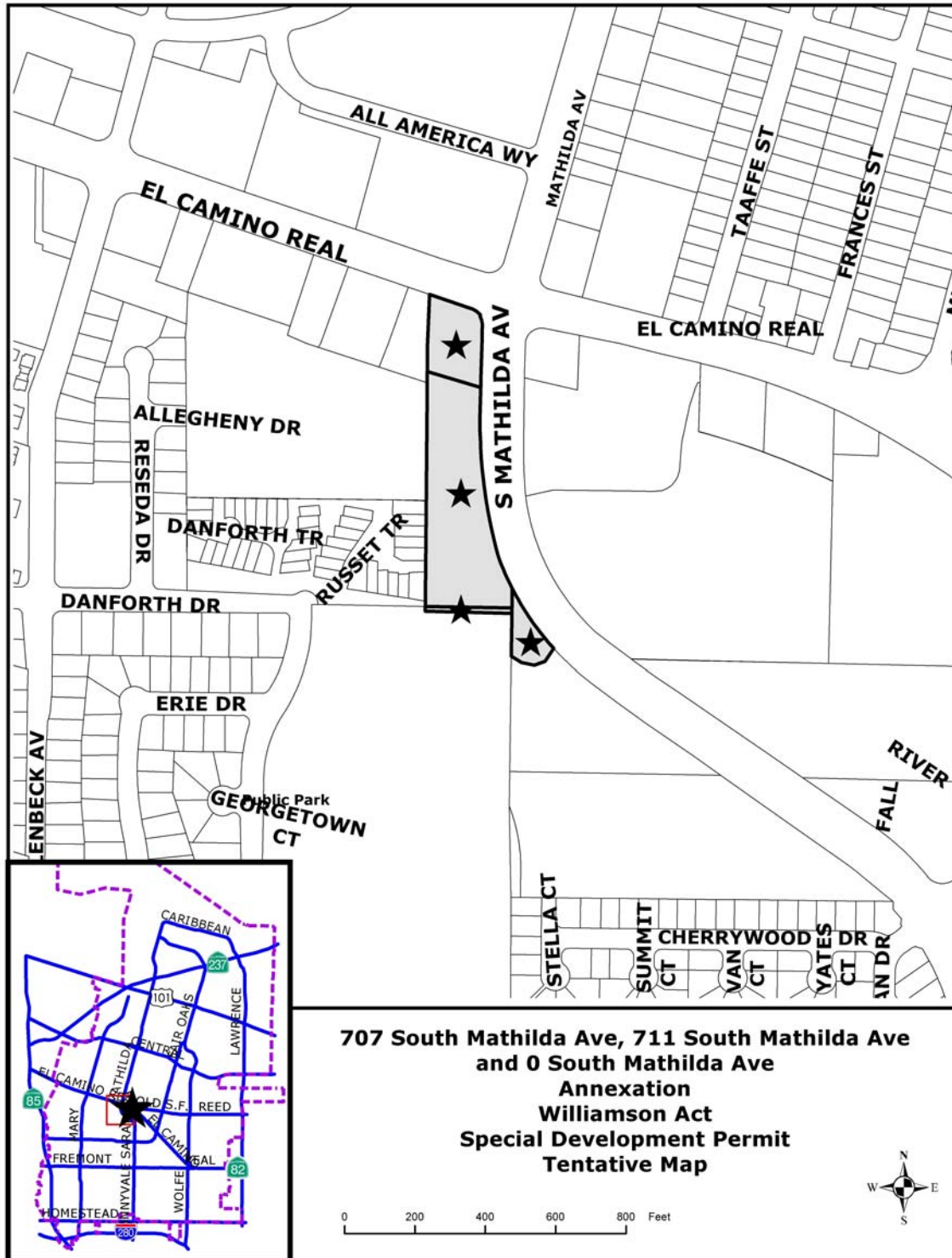
Impact of vehicular access from residential site to  
Tennis Center Drive;  
Parking impacts on Municipal Tennis Center;  
Individual garbage/recycling carts for residential  
property;

**Environmental  
Status**

A Mitigated Negative Declaration has been prepared  
in compliance with California Environmental Quality  
Act provisions and City Guidelines.

**Staff  
Recommendation**

Approve with Modifications



**PROJECT DATA TABLE**

	<b><u>EXISTING</u></b>	<b><u>PROPOSED</u></b>	<b><u>REQUIRED/ PERMITTED</u></b>
<b>General Plan</b>	Commercial General Business (CGB)	Same	---
<b>Precise Plan for El Camino Real</b>	Opportunity Area 3A Primary Use: Commercial & Retail (min. 40% Commercial/Retail/Office, up to 60% Residential)	Same	---
<b>Zoning District</b>	Highway Business, El Camino Real Precise Plan (C2-ECR) for APNs 201-22-009, -010, -012; and  Public Facilities (PF) for APN 201-35-005	Same	---
<b>Type of Project</b>	Gas station, single family home, orchard	Commercial (C) - Shopping Center, Residential (R) - 36 Townhomes	By Annexation, and Special Development Permit
<b>Lot Size (s.f.)</b>	Total: 159,999 s.f. (3.67 ac.)	C – 63,724 s.f. (1.46 ac.) R – 96,275 s.f. (2.21 ac.)	C – N/A R – 8,000 min.
<b>Gross Floor Area (s.f.)</b>	C – 2,000 s.f. R – 3,400 s.f.	C – 14,940 s.f. R – 71,270 s.f.	C – N/A R – N/A
<b>Lot Coverage (%)</b>	C – 2% R – 4%	C – 23.4% R – 31%	C – 35% R – 40% max.
<b>Floor Area Ratio (FAR)</b>	C – 2% R – 4%	C – 23.4% R – 73%	C – 55% max. R – none
<b>No. of Buildings On-Site</b>	3 (gas station, single family house, detached garage)	C – 1 R – 36	By Special Development Permit

	<b><u>EXISTING</u></b>	<b><u>PROPOSED</u></b>	<b><u>REQUIRED/ PERMITTED</u></b>
☆ <b>Distance Between Buildings</b>	C – N/A R ~ 10 ft.	C – N/A R – 20 ft.	C – 20 ft. R – 26 ft. min.
☆ <b>Building Height (ft.)</b>	C – 30 ft. R – 14 ft.	C – 30 ft. R – 34 ft. 9 in.	C – 75 ft. R – 30 ft. max.
☆ <b>No. of Stories</b>	C – 1 R – 1	C – 1 R – 3	C – 8 R – 2 max.
<b>No. of Dwellings Units</b>	C – 0 R – 1	C – N/A R – 36	C – N/A R – 53 max.
<b>Below Market Rate Units (du.)</b>	C – N/A R – N/A	C – N/A R – 5 du. (3-bedroom)	C – N/A R – 5 du. min. (3 bedroom)
☆ <b>Density (units/acre)</b>	C – N/A R – 0.4 du/ac.	C – N/A R – 16.3 du/ac.	C – N/A R – 24 du/ac.
☆ <b>Meets 75% min?</b>	C – N/A R – No	C – N/A R – No (16.3 du/ac)	C – N/A R – 18 du/ac. min.
<b>Bedrooms/Unit</b>	C – N/A R – unknown	C – N/A R – 3	C – N/A R – N/A
<b>Unit Sizes (s.f.)</b>	C – N/A R – 3,400 s.f.	C – N/A R – 1,894 to 2,046 s.f.	C – N/A R – N/A
<b>Lockable Storage/Unit</b>	C – N/A R – garage space	C – N/A R – Dimensions of Garage allows for storage.	C – N/A R – 300 cu. ft. min.
<b>Setbacks (facing prop.)</b>			
• <b>Front</b>	C – 12 ft. R – 30 ft.	C – 15 ft. R – 15 ft.	C – N/A R – 15 ft. min.



	<b><u>EXISTING</u></b>	<b><u>PROPOSED</u></b>	<b><u>REQUIRED/ PERMITTED</u></b>
• <b>Left Side</b>	C – 19 ft. R – 10+ ft.	C – 127 ft. R – 45.3 ft.	C – N/A R – 6 ft 1-side, 15 ft. total; +3 ft. for ea. addl. floor min.
• <b>Right Side</b>	C – 10 ft. R – 200+ ft.	C – 19 ft. R – 15 ft	C – none R – 6 ft 1-side, 15 ft. total; +3 ft. for ea. addl. floor min.
• <b>Rear</b>	C – 26 ft. R – 50+ ft.	C – 52 ft. 6 in. R – 15 ft.	C – N/A R – 20 ft. min.
<b>Landscaping (sq. ft.)</b>			
• <b>Total Landscaping</b>	C – 3,700 s.f. R – 82,252 s.f.	C – 20,532 s.f. (32%) R – 26,375 s.f. (27%)	C – 12,745 s.f. (20%) R – 19,255 s.f. (20%) min.
• <b>Landscaping/Unit</b>	C – N/A R – N/A	C – N/A R – 732 s.f./unit	C – N/A R – 425 s.f. min.
• <b>Usable Open Space/Unit</b>	C – N/A R ~ 90,000 s.f./ du.	C – N/A R – 732 s.f./du. (26,375 s.f.)	C – N/A R – 400 s.f./du. (14,400 s.f.) min.
• <b>Frontage Width (ft.)</b>	C – 6 ft. R ~ 20 ft	C – 15 ft. R – 15+ ft.	C – 15 ft. R – 15 ft. min.
• <b>Buffer (ft.) Adj. Residential</b>	C – N/A R – N/A	C – 5 ft. R – 15 ft.	C – 10 ft. R – 10 ft. min.
• <b>Parking Lot Area Shading (%)</b>	C – unknown R – N/A	C – 54% @ 15 yrs R – 65% @ 15 yrs	C – 50% min. @ 15 years. R – 50% min. @ 15 years.
• <b>Water Conserving Plants (%)</b>	C – unknown R – unknown	C – 70% R – 70%	C – 70% R – 70% min.



	<b><u>EXISTING</u></b>	<b><u>PROPOSED</u></b>	<b><u>REQUIRED/ PERMITTED</u></b>
<b>Parking</b>			
• <b>Total No. of Spaces</b>	C – 12 spaces R – 4 spaces	C – 83 spaces R – 90 spaces	C – 83 spaces R – 88 spaces min.
• <b>No. of Standards</b>	C – 12 spaces R – 2 spaces	C – 73 spaces R – 24 unassigned spaces	C – 71 spaces R – 22 unassigned (by design)
• <b>No. of Compacts / % of total</b>	C – 0 R – 0	C – 6 spaces (7%) R – 0	C – 8 spaces R – 35% of uncovered max.
• <b>No. of Accessible</b>	C – 1 space R – 0	C – 4 spaces R – 2 unassigned spaces	C – 4 spaces R – 2 unassigned spaces min.
• <b>No. of Covered Spaces</b>	C – 0 R – 2 spaces	C – 0 R – 64 spaces	C – 0 spaces R – 64 spaces (by design)
☆ • <b>Driveway Aisle Width (ft.)</b>	C – unknown R – 10	C – 26 ft. R – 20 ft.	C – 26 ft. R – 24 ft. min.
☆ • <b>Bicycle Parking</b>	C – 0 R – 0	C – 2 R – 0	C – per VTA Guidelines (4 Class II) R – 12 Class I, 4 Class II min.
<b>Stormwater</b>			
• <b>Impervious Surface Area (s.f.)</b>	C – 29,150 s.f. R – 92,875 s.f.	C – 50,534 s.f. R – 62,110	C – 61,856 s.f. R – 80, 975 s.f. max.

☆ Item does not meet Sunnyvale Municipal Code (SMC) or General Plan policy requirements.

**ANALYSIS**

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**Background****Previous Actions on the Site:**

The following table summarizes previous planning applications related to the subject site.

<b>File Number</b>	<b>Brief Description</b>	<b>Hearing / Decision</b>	<b>Date</b>
2003-0508	An amendment of a portion of Opportunity Area Three of the Precise Plan for El Camino Real to create Opportunity Area 3A and allow office/commercial to residential and commercial; Rezone from C-2/PD (Highway Business/Planned Development) to C-2/ECR (Highway Business/El Camino Real Precise Plan)	City Council – Approved with Conditions (see details below)	Dec. 16, 2003
1971-0017	Use Permit to construct gas station	Approved	Jan. 5, 1971

At the December 16, 2003 public hearing, the City Council unanimously approved the Resolution to modify primary uses of the Precise Plan for El Camino Real Opportunity Area 3a from Class A Office to a Minimum of 40% Commercial/Retail/Office, and Up to 60% Residential. Council also decided to Rezone the property from C2/PD to C2/ECR. In addition, the Opportunity Area 3a Development Criteria was modified to:

- Allow reduced front yard setbacks of 15 feet.
- Allow the zoning minimum to be consistent with R-3 standards.
- Encourage the preservation and retention of some of the existing mature trees on site with any future development.
- Encourage the opportunity for circulation connections at Tennis Center Lane.

The proposed project complies with the City Council actions described in detail in Attachment 11.

**Site History**

Prior to 1914 the site may have been used as grazing land or supported wheat crops.



- Between 1914 and 1920 the fruit tree orchard was first planted.
- In the 1950's the single-family house was originally constructed at the corner parcel and the site remained used for agricultural purposes, (cherry tree orchard). The house was moved to its present location in 1963 or 1964.
- In 1971, the northern corner parcel was developed as a gas station and the southern parcels remained for agricultural purposes and single family home use.
- On October 12, 1993 the Precise Plan for El Camino Real was approved by Resolution, locating the site within Opportunity Area 3 of the Plan and designating "Class A Office" as the primary desirable use.
- Between 1992 and 1996 groundwater extraction was conducted on the site. In June 1997 a Corrective Action Plan for the gas station site outlined the groundwater cleanup objectives. On June 18, 2001 the gas station site received closure for the groundwater clean-up requirements.

### **Description of Proposed Project**

The subject 3.71-acre project site is made up of four different parcels and located at the southwest corner of the intersection of South Mathilda Avenue and El Camino Real, the two highest volume arterials that cross the City. Three of the parcels are Zoned C2/ECR (Highway Business, El Camino Real Precise Plan) and are currently occupied by a gas station, a single-family house and an orchard. One of the parcels supports two towers for high-tension power lines and is Zoned PF (Public Facility). The two northern parcels are sited within Opportunity Area 3A of the Precise Plan for El Camino Real (min. 40% Commercial/ Retail/ Office, up to 60% Residential). The orchard parcel is County property, but was pre-zoned at a December 2003 City Council public hearing.

The immediately adjacent uses consist of commercial, car dealership, and low-medium density residential uses (townhomes). Across El Camino Real to the north is the City Hall campus. East of the project is a commercial center with medium density residential uses (apartments). To the south of the project are the Sunnyvale Municipal Tennis Center and an agricultural orchard.

The proposed project is generally in accordance with the Opportunity Area 3A development criteria established for the site. It achieves the minimum of 40 % commercial and 60% residential development for the total project area. The residential project meets most of the R-3 Zoning standards, with the allowable reduced front yard setbacks of 15 feet, with the exceptions listed in the Project Data Table. A Certified Arborist report concluded that existing mature trees on the site are close to the end of their expected life span, and that the site would be better served by replanting newer trees of a similar species. The applicant

has also proposed circulation connections from the residential property to Tennis Center Lane.

Approval of the proposed developments requires two resolutions by Council and three motions. The resolutions relate to action required by the City Council to annex the land and cancel the Williamson Act contract.

***Annexation of land to the City (Resolution):*** The proposed project includes two parcels (APN: 201-22-010, 201-35-005) that are currently within county jurisdiction. These parcels will be proposed for annexation to the City Council.

***Cancellation of the Williamson Act and Dis-establishment of an Agricultural Preserve (Resolution):*** The southern portion of the project site is currently designated as an Agricultural Preserve and is under a Williamson Act contract. This element of the project includes a rescinding of the contract for agricultural use of the property. As a part of the annexation, the City will succeed to the Williamson Act Contract. This action requires City Council Resolution and is only referenced in this report.

***Special Development Permit:*** The proposed project would result in one commercial structure located on the northern portion of the site, and 36 townhomes located on the southern portion of the site. The project involves deviations from the City Code and staff is recommending modifications prior to adoption.

***Tentative Map:*** The Tentative Map is for the southern three parcels, after the lot line adjustment. The Tentative Map will subdivide the three lots into 36 townhome lots on one common lot.

The proposed project also involves the adjustment of the lot line between the two existing northern parcels. The northern lot (APN: 201-22-009) would expand southward from 33,700 sq.ft. to 63,724 sq.ft., and the northern portion of the middle lot (APN: 201-22-010) would be reduced by 30,024 sq. ft. This action only requires the approval of the Director of Public Works.

### **Environmental Review**

A Mitigated Negative Declaration has been prepared in compliance with the California Environmental Quality Act provisions and City Guidelines. An Initial Study has determined that the proposed project would not create significant environmental impacts with implementation of the recommended mitigation measures. (See Attachment 3, Initial Study). There are four mitigation measures required for the site.

**Noise:** An acoustical study was prepared by Charles M Salter Associates Inc. on May 12, 2004. The study analyzed the impact of the noise from the surrounding environments on the proposed project. The consultant recommended specific mitigations to bring the project into compliance with the "Noise and Land Use Compatibility Guidelines" provided in Table 2 of the Noise Sub-Element of the City of Sunnyvale General Plan (March 1997).

The major noise source was determined to be vehicular traffic on Mathilda Avenue, and the most sensitive aspect of the project the proposed residential units. The residential property is the only component of the project that requires mitigation. The mitigation for the exterior noise is a three-foot high (from the patio) solid sound fence.

The State of California Building Code (Appendix Section 1208A) requires that indoor noise not exceed 45 dB for new multi-family housing. Meeting the requirement will require sound-rated windows and exterior doors for some of the residential units. The mitigations include windows with a minimum Sound Transmission Class (STC) rating of 25 to 28 for most of the homes that front Mathilda Avenue.

The developer is responsible for completing all of the noise mitigation measures. These measures shall be clearly marked and demonstrated in the plans submitted for building permits. All improvements shall be completed prior to occupancy (see Mitigation Measures in Attachment 4).

**Contaminated Soils:** This mitigation is listed under *Mandatory Findings of Significance* in the Initial Study. The current use of the northern portion of the site is as a service station. A September 2003 Soil Sampling report by URS Corporation indicated moderately high concentrations of gasoline products in selected soil samples. The report concluded the pollutants are due to an unauthorized release of gasoline to the soil.

The mitigation for the release is to remove the contaminated soil prior to construction activities on the site. As a condition of approval, the contaminated soils in the area of construction must be removed and the site kept accessible for groundwater treatment, if treatment is required by the Santa Clara Valley Water District (see Mitigation Measures in Attachment 4). The site must then be refilled using clean soil. According to the applicant, the current tenant of the contaminated site is obliged under contract for any mitigation. The property owner is ultimately responsible for the adequate removal of the contaminated soil. The potential impact of the release shall be further mitigated as the proposed plan calls for the contaminated area to be covered by either the building footprint or the parking lot.

***Agricultural Resources:*** The California Land Conservation Act of 1965, also known as the Williamson Act, establishes the provisions that allow a certain tax advantage to lands maintained in agricultural use. The existing orchard parcel (APN: 201-22-010) is currently under a Williamson Act contract. General Plan Amendments and pre-zoning of the property, which were conducted in December 2003, do not require the contract status be terminated; however, the contract status must be terminated in order to proceed with development of the property.

The proposed use of the site, which includes the dis-establishment of the agricultural preserve, is consistent with the December 2003 resolution by Council to modify primary uses of the Precise Plan for El Camino Opportunity Area 3A for Commercial/Retail/Office and Residential use.

The cancellation of the Williamson Act contract and dis-establishment of the Agricultural Preserve will achieve land use consistency (see Mitigation Measures in Attachment 4). Adoption of the proposal to rescind the contract is required both by the City Council and by the California Department of Conservation. The City Council shall consider adopting the proposal at a public hearing. The California Department of Conservation will consider adopting the proposal after it has been adopted by the City Council. The California Department of Conservation is aware of, and is not in opposition to, the proposed mitigation measures (see Attachment 12).

***Hydrology and Water Quality:*** The proposed project will result in a substantial increase in impermeable lot coverage, which is in contrast to the existing tilled soil that covers most of the site. The mitigation involves incorporating Stormwater Best Management Practices (BMPs) to manage and provide preliminary treatment to site run-off. The BMPs are included in the site design and a qualified third party shall certify the plans prior to the Building permit stage. The developer is responsible for completing all of the designed BMPs prior to occupancy. The property owner is responsible for maintaining the BMPs (see Mitigation Measures in Attachment 4).

### **Special Development Permit**

Though submitted as a single project, this application involves two conceptually separate projects, one commercial and one residential. The two projects are discussed separately, have separate Conditions of Approval, and may be developed separately. The conditions of approval shall include that no occupancy permits shall be issued on one site until public utilities have been undergrounded for both sites. Site plans and elevations for the proposed commercial project are located in Attachment 5. Site plans and elevations for the proposed residential project are located in Attachment 6.

For purposes of determining the maximum 60% residential standard established by the City Council, this application shall be considered one project, such that future divisions of the entire project site may not allow for additional residential development.

The total project site involves four existing parcels, two of which are currently under the jurisdiction of Santa Clara County. This report refers to the four parcels as one project site, and assumes that the two County parcels will be incorporated into the City of Sunnyvale during the subsequent City Council public hearing.

**Use:**

Commercial Project

The retail portion of the development would occupy 63,724 sq. ft. (1.46 ac.) of the total project site. It would consist of one 14,940 sq. ft. one-story commercial building with a ground-level parking lot and landscaping. The proposed tenant uses for the site may include restaurants, a financial institution, and general retail. The commercial building includes pedestrian walkways and possible seating areas around the exterior of the building.

Residential Project

The residential portion of the development would occupy 96,275 sq. ft. (2.21 ac) of the total project site. It would consist of 36 three-story townhomes with private garages, ground-level unassigned parking spaces and landscaping.

**Below Market Rate (BMR):** This project will require a total of 5 Below Market Rate (BMR) Units, to meet the City's requirement of allocating 12.5% of new housing units as BMR units. The BMR units will be three-bedroom units, selected in accordance with the City of Sunnyvale Below Market Rate Housing Program Administrative Procedures. The Applicant has signed a BMR Standard Permit Conditions document (Attachment 7). Conditions of Approval are listed as 24 in the residential section of the Special Development Permit (Attachment 2).

**Compatible neighboring use:** As the proposed project is an infill site, it should be recognized that the existing Municipal Tennis Center, located just south of the proposed residential properties, may impact the future residents of the site. Provisions should be made to alert potential buyers of the residential properties to be aware of the existing neighboring uses. City desires that future homeowners are notified in advance they are purchasing property adjacent to a highly used public park and there will be resulting noise, pedestrian and vehicle traffic, night lighting, etc. in association with the use of

the public property (See Condition of Approval 20, for the residential development, in Attachment 2).

The following Guidelines were considered in analysis of the project site design.

<b>Design Policy or Guideline (Use)</b>	<b>Comments</b>
<p><b><u>Land Use and Transportation</u></b>  <b><u>Element (LUT): Action Statement</u></b>  <i>C1.1.3., Goal C2. Ensure ownership and rental housing options in terms of style, size and density that are appropriate and contribute positively to the surrounding area.</i></p>	<p>With the exception of the density requirements, the proposed townhomes are in accordance with the zoning and Precise Plan for the project site.</p>
<p><b><u>LUT Element: Policy N1.2</u></b>      <i>Require new development to be compatible with the neighborhood, adjacent land uses and the transportation system.</i></p>	<p>The proposed townhomes are compatible with the residential use to the southwest of the site and includes both a barrier and a corridor that allows for transition to the commercial site.</p>
<p><b><u>Policy N1.11</u></b> <i>Recognize El Camino Real as a primary retail corridor with a mix of uses</i></p>	<p>The proposed project includes a commercial use for the parcels fronting El Camino Real, while providing a transition to the neighboring residences and municipal facility to the south.</p>
<p><b><u>Community Character. Policy C2.2</u></b>  <i>Encourage the development of ownership housing to maintain a majority of housing in the City for ownership choice.</i></p>	<p>The project involves development of 36 ownership townhomes that will be sold to private owners, and shall include 5 ownership BMR units.</p>
<p><b><u>The Neighborhoods. Policy N1.2</u></b>  <i>Require new development to be compatible with neighborhood, adjacent land uses, and the transportation system.</i></p>	<p>The proposed development balances the El Camino retail corridor with the surrounding residential uses.</p>
<p><b><u>Housing and Community Revitalization (H&amp;CR) Sub-Element:</u></b>  <b>Goal A</b>      <i>Foster the expansion of the housing supply to provide greater opportunities for current and future residents within limits imposed by environmental, social, fiscal and land use constraints.</i></p>	<p>Five of the proposed 36 townhomes shall be Below Market Rate (BMR) units.</p>

<b>Design Policy or Guideline (Use)</b>	<b>Comments</b>
<b><i>H&amp;CR Sub-Element: Policy A.1</i></b> <b><i>Continue to improve, if feasible, the existing jobs to housing ratio.</i></b>	The increase in housing provided by the project improves the current jobs to housing ratio.
<b><i>H&amp;CR Sub-Element: Policy A.3</i></b> <b><i>Continue to permit and encourage a residential mix with jobs producing land use, as long as there is neighborhood compatibility and no environmental constraints.</i></b>	The proposed project includes development of both residential units as well as potential jobs from the proposed retail use.

### **Site Layout:**

#### Overview

The entire site is bounded by El Camino Real on the north side and Mathilda Avenue on the east side. The southern boundary line abuts the Sunnyvale Municipal Tennis Center and includes a PG&E easement for overhead powerlines. The western boundary line abuts a commercial vehicle sales property and two-story residential properties.

#### Commercial Project

The commercial site is organized with the building on the northeast portion of the lot, with a public art feature to be located at the corner of Mathilda Avenue and El Camino Real. The retail development is accessed by a two-way driveway on El Camino Real and one on Mathilda Avenue. The ground-level parking lot provides 83 parking spaces, which include 4 accessible parking spaces.

The commercial site is separated from the residential property to the south by a six foot high masonry wall. The two sites are joined by a wrought iron pedestrian gate with stone veneer side pillars and concrete cap (Attachment 8).

#### Residential Project

The residential project consists of 36 townhomes which are grouped into nine buildings, ranging from two to six townhomes per building. All townhomes consist of three bedrooms. The number of townhomes per building is indicated in the following table.

<b>Type</b>	<b>Number</b>	<b>Building Number</b>
2 -unit	1	Building 1
3 - unit	2	Buildings 2,5
4 - unit	3	Buildings 3, 6, 9
5 - unit	2	Building 4, 7
6 - unit	1	Building 8

The townhomes would be located along the perimeter of the site, with a private access road running through the middle of the residential development, and three dead-end roadway spurs.

The buffer between the residential development and the neighboring residences to the southwest includes a decorative masonry wall six feet in height measured from the highest adjoining grade. The Precise Plan for El Camino Real requires that when the adjacent non-residential building is two stories or more in height, the decorative masonry wall should be eight feet measured from the highest adjoining grade.

The residences are buffered from the Municipal Tennis Center by a six foot high masonry wall. The applicant proposes vehicular and pedestrian access to Tennis Center Lane.

The following Guidelines were considered in analysis of the project site design.

Design Policy or Guideline (Site Layout)	Comments
<b><u>Land Use and Transportation</u></b> <b><u>Element:</u></b> <i>Action Statement C1.1.3</i> <i>Require appropriate buffers, edges and transition areas between dissimilar neighborhoods and land uses.</i>	The eight feet high masonry walls will provide a buffer between the residential and commercial properties. The six feet masonry walls shall provide for privacy for the neighboring residential properties to the southwest of the site.
<i><u>The Neighborhoods.</u> Policy N1.13.5</i> <i>Provide pedestrian and bicycling opportunities to neighborhood commercial services.</i>	Provision of bicycle parking helps promote alternative modes of transportation.

### **Architecture:**

The aesthetic of this project is important as this site is located at a highly visible intersection in the City and serves as a gateway to downtown Sunnyvale.

#### Commercial Project

The one-story commercial structure employs a non-uniform range of height and depth to provide a sense of several storefronts within one structure. The flat roof-lines range from 18 to 28 feet in height. The eclectic appearance provides visual diversity for the street frontage.



The commercial project includes a proposed art design that evokes the agricultural history of the project site. The proposed design includes story walls with sculpture and a small vineyard.

### Residential Project

The three-story townhomes provide an modern Victorian appearance with a simple frontage and an aggressive overhang on the garage entrance side of the structure.

The proposed entry monolith for the Mathilda entrance has a solid design presence; however, it may not be located within the vision triangle if taller than three feet. The proposed monolith shows signage, which will be handled under a different permit.

A gazebo is located in the southwestern section of the property which provides some communal space for residents. The details of the proposed gazebo are subject to review and approval at the Building permit stage.

### Linkage between Project Sites

There will be a pedestrian link between the sites of stone veneer with concrete cap and wrought iron gates.

The following Guidelines were considered in the analysis of the project architecture.

<b>Design Policy or Guideline (Architecture)</b>	<b>Comments</b>
<i>B12 – Develop focal points for every project to create a sense of identification. Plazas, landscaping, water features, art works, changes in pavement textures and levels, and building architectural features may be combined to create focal points.</i>	The commercial project uses a mix of architectural styles to give the appearance of multiple storefronts. The art feature located at the corner of the property will be a focal point on the site.  The gazebo shall provide a focal point for the residential property.
<i>C1.2.2 Encourage development of diversified building forms and intensities.</i>	The commercial structure includes a diverse architecture.
<i>II. Buildings shall enhance the neighborhood and be harmonious in character, style, scale, color and materials with existing buildings in the neighborhood.</i>	The residential project creates a neighborhood unto itself. The commercial and residential components are complementary.

<b>Design Policy or Guideline (Architecture)</b>	<b>Comments</b>
<i>C3. Develop a comprehensive architectural theme for multi-building complexes. Unify various site components through use of similar design, material, and color</i>	The residential project provides multiple units joined by a similar architecture, yet oriented and grouped differently to avoid a monotonous appearance.
<i>B1. Break up large buildings into groups of smaller segments whenever possible, to appear smaller in mass.</i>	The mass of the retail building is broken up by slightly different architectural styles and variations in height. The residential complex is broken up into nine buildings with varying numbers of units and directional orientation.

**Landscaping:**Commercial

The commercial project meets the City's landscaping requirements for coverage. The selection of street trees is under the authority of the City's Urban Landscape Supervisor.

Residential

Public Works staff recommends Southern Magnolias to be planted at 35 foot intervals along Mathilda Avenue. The applicant has requested Cherry trees along the street frontage to maintain the sense of the orchard environment. Staff agrees that the presence of Cherry trees in the area of the Mathilda entrance to the residential site and along the open space between residential structures helps to maintain the sense of history of the site; however, the presence of Magnolia trees along the street frontage will balance with the trees located across Mathilda and help maintain continuity along Mathilda Avenue. The selection of street trees is under the authority of the City's Urban Landscape Supervisor.

Staff recommends a larger species of tree to be located along the southern perimeter of the residential site. This will allow the project to meet SMC requirements for 50% shading of parking areas. The larger trees will provide a visual and audio barrier between the residences and the Municipal Tennis Center.

Staff recommends additional landscaping along the garage entrances for the units located along the two spur streets (Buildings 19 – 23, 24-27 and 28-30). Use of structural soil under the pavement can help create a hospitable environment for the landscaping. Staff also recommends that structural soil be

place in the Gazebo area located at the southwestern corner of the residential site (See Condition of Approval 25 in Attachment 2).

The following Guidelines were considered in analysis of the project landscaping.

<b>Design Policy or Guideline (Landscape)</b>	<b>Comments</b>
<i>C1.2.4 Maintain public open space areas and require private open space to be maintained.</i>	Continuity of trees along street frontage provides for a more uniform public corridor along Mathilda.
<i>IV Landscaping shall be used to enhance sites and buildings, control climate and noise, create transition between adjacent uses, unify various site components, and define and separate functions.</i>	The landscaping plans and shade trees provide for site enhancement as well as privacy barriers for the existing residential neighbors southwest of the site, and for future tenants from the noise and lights from the Municipal Tennis Center. The site will also be unified with the use of cherry trees scattered through-out the site and along selected street frontage areas.
<i>A2 Preserve and incorporate existing natural features, particularly trees, on a site into the landscape design of projects.</i>	A certified arborist indicated that Council's intent to preserve trees is not feasible given that the existing trees are in decline and the design of the residential development. The proposal includes the planting of a cluster of Cherry trees on the residential property near the proposed entrance to Mathilda Avenue.

### **Parking:**

#### Commercial

The site meets the standard parking design requirement for General Retail Use (1 space/180 sq. ft. floor space). City Code allows up to 10% of the site for non-retail uses before an additional parking analysis is required through a Use Permit. The applicant has requested up to 30% occupancy of non-retail uses (such as restaurant use) without requiring a Use Permit (Attachment 9). Staff outlined the potential impacts of different uses on the site in correspondence with the applicant (Attachment 10). While an increase of up to 15% in

restaurant use may not be a problem, some restaurant uses have notably different parking requirements (eg. 1 space per 50 sq. ft. for nightclubs and bars not in restaurants). Thus, if 15% of the commercial area is converted to high volume use, the parking requirement for just that area expands from 13 to 45 spaces required. This would have a notable impact on the site and the surrounding properties. Additionally, the neighboring site across Mathilda Avenue is currently experiencing parking related issues, and designing a potential shortage will only exacerbate the potential for circulation issues on and around the site.

The Applicant is requested to provide additional bicycle parking spaces to encourage bicycle transportation to the site. The number of spaces shall be per VTA Guidelines, which includes 1/30 employees on duty at any one time for Class I bicycle parking spaces, and 4 Class II bicycling parking racks. (See Condition of Approval 4 for residential development in Attachment 2).

### Residential

The Applicant has proposed eight garages with tandem spaces for the residential property. The Sunnyvale Municipal Code does not recognize tandem garage parking as required parking. Therefore, the eight tandem garages are calculated as 8 parking spaces rather than 16 spaces, with the additional area considered as storage space.

The residential development will need some modifications to achieve accessibility requirements. The accessible parking spaces are located together at one end of the development rather than interspersed among the development. Staff recommends the relocation of one accessible parking space to the center of the development.

Most of the unassigned parking spaces are located on the southern end of the site and are not conveniently located from most of the residences and their guests. The 5-unit building located in the southwestern portion of the site could be moved south, and the corresponding spaces and gazebo could be moved north of that building to achieve a better distribution of parking.

The Applicant is requested to provide a total of 16 bicycle parking spaces for the residential property, per VTA requirements. This includes 12 Class I number of spaces and 4 Class II bicycling parking racks (See Condition of Approval for Special Development Permit 11 for commercial property and 4 for residential property in Attachment 2).

**Circulation:**Overall

The Santa Clara Valley Transportation Authority (VTA) reviewed the project and has no comments. The California Department of Transportation (CDOT) reviewed the project for potential impacts to El Camino Real (State Route 82) and requested a focused traffic analysis. The analysis was provided by the applicant and staff forwarded a copy to CDOT. CDOT indicated that roadway improvement or driveway modifications would need to ensure safe and convenient roadway conditions. Additionally, any work or traffic control within the State right-of-way would require a CDOT encroachment permit (see Attachment 13).

Residential

**Access to the Municipal Tennis Center.** A traffic study was completed for this project by the firm of Fehr and Peers Associates Transportation Consultants, and approved by City staff for meeting scope requirements. This study examined site access and parking issues, as well as impacts to the City street system in the immediate vicinity of the site. Particular concerns were changes to the amount and flow of traffic accessing the site, and parking demand and impacts of the proposed use and adjacent uses (specifically the Tennis Center complex).

The traffic study found that motor vehicle traffic generation would be moderately decreased in the peak travel hours from the levels currently experienced with the gas station use. Therefore, intersection level of service for nearby signalized intersections would be anticipated to be negligibly affected by the proposed development.

Staff directed that the study examine different access, circulation and parking configurations for the proposed use, including shared use parking assumptions. Circulation with and without access to the Tennis Center driveway was also examined. There is a traffic signal on Mathilda Avenue at the driveway to Tennis Center Lane to the west, and the driveway to the Cherry Orchard complex to the east. The study found that the provision of access to the site via the Tennis Center driveway would service a small number of trips to and from the site during peak hours, on the order of 10 trips or less per affected signalized movement. Under a scenario whereby no access was possible via the Tennis Center driveway, project trips would utilize different movements at the Mathilda/El Camino intersection and the Mathilda/Tennis Center intersection. These would be primarily U-turns for any northbound Mathilda trips. The low volumes anticipated for these movements would have no significant affect on intersection or roadway operations. Therefore, staff concludes that there is no significant difference from the perspective of City

street operations between scenarios with and without vehicle access to the site via the Tennis Center. There is a modest access improvement (<10 vehicles per peak hour) for vehicles accessing the site via a Tennis Center driveway which would otherwise have to proceed through the Mathilda/Tennis Center signal and make a U turn at Mathilda/El Camino.

The traffic study found that access to the site via the Tennis Center would significantly impact the Tennis Center parking lot. Vehicles exiting the project site would need to circulate through the Tennis Center lot prior to exiting towards Mathilda, unless the parking lot were reconfigured to allow left turns out of the project site. Reconfiguring the parking lot would necessitate the removal of 4-6 parking spaces. A parking survey showed that the Tennis Center parking lot is over capacity under normal Center operating conditions. During peak weekend and evening use, all parking spaces are full and parking overflows onto undesignated areas adjacent to the formal parking lot. Removal of parking spaces would exacerbate this condition, and the addition of project traffic to the parking lot circulation pattern would compound an already impacted circulation condition. The study further concludes that the existing impacted parking condition at the Tennis Center would cause Tennis Center overflow parking to utilize guest spaces within the proposed development if a driveway connection were to be provided.

Staff is recommending that no driveway connection be provided between the proposed development and the Tennis Center. Provision of a vehicular connection provides only marginal benefit to a small number of project users, while creating significant circulation and parking impacts in an already impacted situation at the Tennis Center. The connection also creates the potential for significant, ongoing parking and use conflicts between the Tennis Center and the proposed development. Staff supports a pedestrian connection between the proposed development and the Tennis Center and Las Palmas Park to facilitate access and use of the park by residents of the proposed project. This connection should be carefully designed to be safe for users and to screen parking areas in the development from Tennis Center users (See Condition of Approval 15 in the residential section in Attachment 2).

Tennis Center Lane is a regular driveway that benefits "Las Palmas Tennis Center" and is not considered a standard public right-of-way. Staff is, therefore, proposing pedestrian access only between the residential and Municipal Tennis Center site. The proposed traffic pattern will complicate traffic flow on the Tennis Center site and staff anticipated concerns raised by both patrons of the Tennis Center when residents park in the Tennis Center parking lot, as well as concerns raised by residents if the residential parking area at the southernmost end of the site is used by Tennis Center patrons.

The difficulties raised by trying to balance the needs of the future residents with the public good provided by the Tennis Center underscores the complications raised by infill development.

A possible remedy may be to provide additional parking on the Tennis Center site, not just to accommodate for the parking spaces removed to allow for a revised circulation pattern, but also to accommodate for the anticipated overflow parking that would result from the residential project.

Vehicular access between sites is also expected to result in Tennis Center patrons using the residential parking spaces located on the southern boundary of the residential site.

***Individualized Garbage/Recycling Carts.*** Circulation on the site is further impacted by the Applicant's intent to provide individualized garbage/recycling carts for each of the 36 townhomes, as opposed to a centralized trash enclosure as required by City Code. The applicant has requested individualized garbage/recycling carts in order to promote a sense that the townhomes are single family homes. The individual carts are expected to result in obstruction to the site each week while the waste/recycling vehicles are emptying each of the 72 carts (one trash and one recycling bin for each townhome), as well as the presence of the carts along a limited portion of the access roadway. As the garbage trucks are unable to access the dead-end roadway spurs, all 72 waste/recycling carts must be located along the accessible roadway. Given that each waste/recycling bin is approximately 3 feet in width and requires 3 feet of clearance on either side, over 430 linear feet of roadway would be required for all residents to be able to locate their carts on the accessible roadway. However, there is only a total of approximately 390 linear feet along the accessible roadway (600 feet less 10 feet for each impacted driveway). The result will either be carts located in driveways, in the street, or inaccessible to the waste/recycling trucks, requiring solid waste staff to manually move and retrieve resident waste/recycling carts. Staff's further concern is that residents would be exposed to longer durations of noise while garbage is being collected. In a single-family home, trash and recycling carts are typically stored in the side-yard. This project would require storage of carts in the garage. And removing the carts from the garage may require moving a vehicle.

Staff recommends centralized waste disposal facilities incorporated into the site design (See Condition of Approval 22 in the residential section for the Special Development Permit in Attachment 2).

The following Guidelines were considered in analysis of the project parking and circulation.

Design Policy or Guideline (Parking/Circulation)	Comments
<p><b>Efficient Transportation (ET).</b> Policy C3.2.4. Continue to evaluate transportation impacts for land use proposals at a neighborhood and City-wide level.</p> <p><b>ET.</b> Policy C3.4.6. Manage on-street parking to assure safe, efficient traffic flow.</p>	<p>The proposed vehicular access to the Municipal Tennis Center would decrease an existing level of service. Staff recommends allowing for pedestrian access only.</p>
<p><b>ET.</b> Policy C.3.5.4. Maximize the provision of bicycle and pedestrian facilities.</p> <p><b>The Neighborhoods.</b> Policy N1.3.3 Study the adequacy/deficiency of bicycle and pedestrian access and circulation within neighborhoods.</p>	<p>Installation of bike racks may encourage bicycle traffic to and from the site.</p>
<p><b>The Neighborhoods.</b> Policy N1.5.1 Have internal residential neighborhood streets adequately serve traffic that is oriented to that neighborhood.</p> <p><b>Solid Waste Sub-Element.</b> Goal 3.2A. Ensure that all municipal solid waste generated within the City is collected and transported in a manner that protects public health and safety.</p> <p>Action 3.2A.1a. Establish, enforce and periodically update collection service standards.</p> <p>Action 3.2A.2. Compile and analyze information regarding operations to ensure that existing operations are operated in a safe, sanitary and efficient manner and that collection costs are necessary and reasonable.</p>	<p>Use of individualized garbage/ recycling carts would unnecessarily reduce efficiency and increase pollution. There is also a safety concern as individual carts require additional backing up of trucks and a higher intensity of use for a longer duration (also noise concerns). The presence of the carts would result in a cluttered appearance of the neighborhood street. The update of City Code to require centralized trash enclosures has been implemented on other recent development sites. Individualized service will result in higher solid waste servicing costs (more time, fuel required) for the residents. Staff recommends use of a centralized garbage/ recycling enclosure.</p>



<b>Design Policy or Guideline (Parking/Circulation)</b>	<b>Comments</b>
<b><i>The Neighborhoods.</i></b> Policy N1.5.3 <i>Discourage non-neighborhood traffic from using residential neighborhood streets by accommodating traffic demand on city-wide and regional streets.</i>	Providing vehicular access from the residential site to the Tennis Center would encourage use of the neighborhood streets and parking by Tennis Center patrons and vice versa. Staff recommends restricting access to pedestrians.

**Stormwater Management:**

This project requires compliance with the new Stormwater Management requirements. The City of Sunnyvale requires Stormwater Management Plans to be certified by a qualified third party consultant prior to issuance of building permits.

The Applicant has been advised of the associated Stormwater Management Plan costs and responsibilities for construction and long term maintenance and reporting and has provided a preliminary plan that indicated generally how they will comply. Staff finds the initial submittal sufficient; however, a third-party certified set of plans will be required prior to issuance of Building permits.

The Santa Clara Valley Water District does not require a permit for this application, with the exception of their involvement in the gasoline spill mitigation required for the commercial site. Standard construction BMPs are be required to minimize impacts to the environment during construction.

**Easements/Undergrounding:**

The project site requires undergrounding of all utilities and communication services for all project construction on both sites prior to occupancy. Utilities and services to be undergrounded include: all sewer, water and gas facilities except appurtenant equipment, and all electric and communication facilities such as telephone, cable television, fiber optics, etc. including building service (laterals and service drops). Existing power poles on the west property line must be undergrounded. Transformers and similar equipment capable of undergrounding shall be placed underground if located between a public street and the front of any building.

According to the applicant, Pacific Gas & electric (PG&E) does not intend to abandon their easement that currently extends along the western boundary of the site. The existing overhead power line is required to be removed for development of the site. The applicant anticipates the PG&E lines to be

relocated along the western side of the interior street of the residential development.

**Art in Private Development:**

This project is subject to the Art in Private Development requirements of Chapter 19.52 of the Sunnyvale Municipal Code as it is at a significant intersection. The Applicant has been working with staff and the Arts Commission to meet the City's requirements for art on commercial sites and develop a design appropriate for the site. The location of the art will be at the northeast corner of the commercial site, at the intersection of Mathilda Avenue and El Camino Real.

**Lot Line Adjustment**

The proposed project involves the adjustment of the lot line between the two northern parcels. The northern lot (APN: 201-22-009) would expand from 33,700 sq.ft. to 63,724 sq.ft., and the middle lot (APN: 201-22-010) would be reduced by 30,024 sq. ft.

**General:**

The lots are being adjusted to allow for dividing the entire site into 40% commercial and 60% residential for development purposes, as approved by the City Council in December 2003.

**Access:**

The northern commercial lot will maintain access from Mathilda Avenue and to El Camino Real. The southern lot shall be joined with the remaining two lots and re-parceled into one common lot with 36 air-space lots for the townhomes. The common lot will have an access route to Mathilda Avenue. The applicant has requested access to Tennis Center Lane; however, staff has concluded that this access is not necessary for the success of the project and is recommending that access to Tennis Center Land not be granted.

**Right of Way:**

El Camino Real is a state highway under the jurisdiction of CalTrans. The project will be improved in accordance with the State adopted plan line for El Camino Real.

Mathilda is a City street. No widening is required on Mathilda Avenue but a modification will be required for the residential site to gain access to Mathilda Avenue. Staff has confirmed that the proposed location for the access point is not expected to provide a significant impact to traffic flow along Mathilda Avenue.

**Tentative Map**

The Tentative Map is for the southern three parcels, after the lot line adjustment. The Tentative Map is to subdivide the three southern lots into 36 townhome lots on one common lot.

**General:**

The City requires approval and recordation of a Final Map. The Final Map dedication shall include a six foot landscape easement and ten-foot PUE's on the entire frontages of Mathilda and El Camino Real. All public improvements shall be constructed prior to occupancy.

**Access:**

The common lot will have an access route to Mathilda Avenue. The applicant has requested access to Tennis Center Lane; however, staff has concluded that this access is not necessary for the success of the project and is recommending that access to Tennis Center Lane not be granted.

**Right of Way:**

See discussion under Lot Line Adjustment.

**Transportation Impact Fee**

The *Trip Generation, Parking, Site Access and Circulation Study* submitted by the applicant indicates that the overall trip generation to the site would decrease when the proposed project is fully constructed and in use. This is due to the high volume of traffic currently generated by the existing gas station. However, if the project were to be phased such that the residential development is constructed prior to the closing of the gas station, the development would result in a net increase to trip generation, which requires the applicant to pay a Traffic Impact Fee. Staff recommends that the project be conditioned to include a Traffic Impact Fee if the site is developed in phases, and that the fee may be waived if construction of the retail site commences prior to occupancy of the residential (see Condition of Approval 22 in commercial section and 29 in residential section of Special Development Permit in Attachment 2).

**Park Dedication Fee**

The residential portion of the project is subject to Park Dedication Fees. The park dedication fees for this project are \$4,851.50/unit. This fee shall be collected prior to action on a Final Map.

**Compliance with Development Standards****Commercial**

<b>Requested Deviation</b>	<b>Justifications</b>
<ul style="list-style-type: none"> <li>• The landscape buffer is only 5 instead of the required 10 feet minimum.</li> <li>• The buffer for adjacency to a residential property is only 5 instead of the required 10 feet minimum.</li> <li>• The project only provides 2 bicycle parking spaces where Class I are required (per VTA Guidelines) and 4 Class II bicycle parking spaces are required.</li> </ul>	<ul style="list-style-type: none"> <li>• The project will establish a commercial presence at one of the major intersections in Sunnyvale. Staff considers this to be in substantial conformance with the concept to discourage small strip centers on El Camino Real.</li> <li>• A public art display that reflects the history of the area will be located at the intersection of Mathilda Avenue and El Camino Real and would frame the intersection. The art will provide a focal point of the commercial development. The Arts Commission will be involved in the final approval of the art display.</li> <li>• Staff recommends that all bicycle parking be provided.</li> </ul>

**Residential**

<b>Requested Deviation</b>	<b>Justifications</b>
<ul style="list-style-type: none"> <li>• Only 20 feet between buildings, where 26 feet is required.</li> <li>• Three stories proposed where only 2 stories allowed.</li> <li>• Height of 34 feet where only 30 feet is allowed for R-3 Zoning.</li> <li>• Housing Density only 16.3 du./ac. instead of the design requirement of 24 du./ac (or 75% minimum of 18 du./ac.)</li> <li>• Rear yard setback of only 15 feet, where 20 feet is required.</li> </ul>	<ul style="list-style-type: none"> <li>• The project will provide additional housing, including additional Below Market Rate housing, for the community as required by the General Plan Objective of the Housing and Community Revitalization Sub-Element.</li> <li>• The additional housing stock will help to offset the current imbalance in the job to housing ratio.</li> <li>• The site is long and narrow, making adherence to dimensional standards more difficult. For example, even with the use of three-stories for the housing,</li> </ul>

<ul style="list-style-type: none"> <li>• Driveway width of only 20 feet where 24 feet is required.</li> <li>• Parking space #11 encroaches into the 15 feet front setback area.</li> <li>• Individualized garbage/recycling carts are proposed where centralized garbage/recycling enclosures are required by City Code.</li> <li>• The project does not provide for bicycle parking where 12 Class I and 4 Class II bicycle parking spaces are required.</li> <li>• The parking lot does not meet the 50% shading requirement.</li> </ul>	<p>it would be difficult to add an additional three units and required parking to meet density requirements.</p> <ul style="list-style-type: none"> <li>• Staff recommends that the following deviations <b><u>not</u></b> be permitted:             <ul style="list-style-type: none"> <li>i. Individualized trash carts;</li> <li>ii. Reduced bicycle parking;</li> <li>iii. Reduced parking lot shading.</li> </ul> </li> </ul>
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### **Precise Plan for El Camino Real**

During the December 16, 2003, public hearing, the City Council adopted a Resolution to modify the primary uses of the Precise Plan for El Camino Opportunity Area 3a from Class A Office to a Minimum of 40% Commercial/Retail/Office, and Up to 60% Residential. The proposed project meets the Precise Plan for El Camino Real.

### **Expected Impact on the Surroundings**

Staff has determined that the primary impact to the surrounding properties will be traffic and parking related impacts on the Municipal Tennis Center. The proposed vehicular access to the Municipal Tennis Center is expected to result in parking overflow to both the Tennis Center from the residential area, and the residential parking area from the Tennis Center. The project will also have an aesthetic impact on the site. The existing orchard reflects the history of the site and of much of the City of Sunnyvale. While the loss of the orchard will have a visual impact on the site, the City still has an active orchard that is located adjacent to the Community Center on Remington Drive.

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**Findings, General Plan Goals and Conditions of Approval**

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Staff was able to make the required Findings based on the justifications for the Special Development Permit and Tentative Map, with the recommended minor changes detailed in the staff report and proposed Conditions of Approval.

- Findings and General Plan Goals are located in Attachment 1.
- Conditions of Approval are located in Attachment 2.

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**Fiscal Impact**

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A modest increase in sales tax revenue is expected from the retail portion of the development over the gas station. The City will also benefit from property tax increases based on the annexation and development of the land. All required fees and assessment will be paid by the developer.

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**Public Contact**

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<b>Notice of Negative Declaration and Public Hearing</b>	<b>Staff Report</b>	<b>Agenda</b>
<ul style="list-style-type: none"><li>• Published in the <i>Sun</i> newspaper</li><li>• Posted on the site</li><li>• 976 notices were mailed to the property owners and tenants within over 300 ft. of the project site</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City of Sunnyvale's Website</li><li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City's official notice bulletin board</li><li>• City of Sunnyvale's Website</li><li>• Recorded for SunDial</li></ul>

The Applicant's Team has had several meetings with the Old Orchard Homeowners Association, including meetings with the Board of Directors at the adjoining residential development several times last year.

Meetings were also held with the owner of the former Raines dealership and owner of the new dealership. The owner has indicated potential interest in a similar development in the future.

During the December 16, 2003 public hearing on the Precise Plan, residential neighbors expressed concerns with privacy and early morning noise. They expressed a preference for a mixed use of the site, with lower density

residential use. Neighbors also expressed a desire for a “green barrier” between their property and the adjoining use.

On May 12, 2004 a meeting was held by the Applicant’s Team at the Senior Center for people interested in the proposed project. Notice of the meetings had been mailed to those included in the City’s previous noticing for the site. Approximately 23 people attended the meeting. Most of the questions came from residents neighboring the southwest portion of the site. Concerns included:

- Privacy – the rear setback for the residences abutting their property (appeared to find the 15 feet setback acceptable);
- Parking – abuse of parking spaces (suggested including restrictions in the CC&Rs);
- Tree types – requested not planting of Liquid Amber along property line;
- Responsibility for common areas – verified HOA responsible; and
- Access – sidewalks along Tennis Center Drive.

## **Alternatives**

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1. Adopt the Mitigated Negative Declaration and recommend that the City Council approve the Annexation, Williamson Act cancellation, dis-establishment of the Agricultural Preserve, Special Development Permit, and Tentative Map subject to the Conditions of Approval.
2. Adopt the Mitigated Negative Declaration and recommend that the City Council approve Annexation, Williamson Act cancellation, dis-establishment of the Agricultural Preserve, Special Development Permit, and Tentative Map with modifications.
3. Adopt the Mitigated Negative Declaration and recommend that the City Council deny the Annexation, Williamson Act cancellation, dis-establishment of the Agricultural Preserve, Special Development Permit, and Tentative Map.
4. Do not adopt the Mitigated Negative Declaration and direct staff as to where additional environmental analysis is required.

**Recommendation**

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Alternative 1.

Prepared by:

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Jamie McLeod  
Project Planner

Reviewed by:

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Fred Bell  
Principal Planner

Reviewed by:

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Trudi Ryan  
Planning Officer

Reviewed by:

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Robert Paternoster  
Director of Community Development

Approved by:

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Amy Chan  
City Manager



Attachments:

1. Recommended Findings
2. Recommended Conditions of Approval
3. Mitigated Negative Declaration /Initial Study
4. Mitigation Measures
5. Site and Architectural Plans – Commercial
6. Site and Architectural Plans – Residential
7. BMR Standard Permit Conditions
8. Architectural Plan for gate adjoining sites
9. Letters from the Applicant
10. Correspondence from Staff
11. City Council modifications to site
12. Correspondence from government agencies regarding proposed annexation and cancellation of Williamson Act

**Recommended Findings – Annexation**

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No action is required of the Planning Commission on this item. Annexation of land to the City requires a Resolution by City Council and Recommended Findings shall be included in the staff report for the City Council public hearing.

**Recommended Findings – Cancellation of Williamson Act and Dis-Establishment of an Agricultural Preserve**

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No action is required of the Planning Commission on this item. Cancellation of Williamson Act and Dis-Establishment of an Agricultural Preserve requires a Resolution by City Council and Recommended Findings shall be included in the staff report for the City Council public hearing.

**Recommended Findings - Special Development Permit**

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1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project would create a distinctive new neighborhood with both residential and commercial uses. The project would create a quality architectural statement at a major City gateway intersection. The project would provide housing opportunities including below market rate units. The residential project would be within walking distance of transit services and of supporting commercial uses. The project would be in substantial conformance with the Precise Plan for El Camino Real which is the City's plan to promote El Camino Real as a primary retail corridor.
2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties as the project appearance meets the Citywide Design Guidelines and the architectural standards adopted for Opportunity Area 3A of the Precise Plan for El Camino Real. The site design, with the proposed modifications to access design, will not interfere with the use of adjacent properties.

**Recommended Findings - Tentative Map**

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The subdivision, together with the provisions for its design and improvements, is consistent with objectives, policies, general land uses and programs of the General Plan. The subdivision meets general requirements for the R-3 Zoning District. As conditioned, all required easements for future public improvements will be included when the map is finalized.

If the decision making makes any of the following findings, the Tentative Map shall be denied:

1. That the subdivision is not consistent with the General Plan.
2. That the design or improvement of the proposed subdivision is not consistent with the General Plan.
3. That the site is not physically suitable for the proposed type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.
8. That the map fails to meet or perform one or more requirements or conditions imposed by the "Subdivision Map Act" or by the Municipal Code

### **Recommended Conditions of Approval – Annexation**

Annexation of land to the City requires a Resolution by City Council. Recommended Conditions of Approval shall be included in the staff report to City Council.

The following Conditions are required by LAFCO to approve the annexation of the property to San Jose with the following conditions:

1. No services shall be provided by the City of Sunnyvale to the annexed property for use during the remaining life of the Williamson Act Contract for land uses or activities not allowed under the contract. The contract will terminate on January 1, 2011.

### **Recommended Conditions of Approval – Williamson Act**

Cancellation of the Williamson Act and Dis-establishment of an Agricultural Preserve requires a Resolution by City Council. Recommended Conditions of Approval shall be included in the staff report to City Council.

The following Conditions are required by LAFCO to approve the annexation of the property to San Jose with the following conditions:

1. No services shall be provided by the City of Sunnyvale to the annexed property for use during the remaining life of the Williamson Act Contract for land uses or activities not allowed under the contract. The contract will terminate on January 1, 2011.
2. As necessary, the City of Sunnyvale shall adopt the rules and procedures required by the Williamson Act, including but not limited to the rules and procedures required by Government Code sections 51231, 51237, and 51237.5

**Recommended Conditions of Approval - Special Development Permit**

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

**A. Conditions of Approval Specific to Commercial**

1. All uses as a matter of right within a C-2 Zoning District shall be permitted as a matter of right on this property, except that the following uses shall require a separate Special Development Permit:
  - a. All uses listed in the C-2 Zoning District as needing a Use Permit including entertainment uses; establishments for which any on-sale liquor license is issued; dog grooming and pet stores.
  - b. All restaurants and take-out food establishments shall be subject to approval of a Miscellaneous Plan Application with review of parking, circulation and garbage disposal plan.
2. General business hours shall be limited to 7:00 a.m. to 12:00 a.m. midnight. More restrictive hours of operation may be imposed on specific uses requiring approval of a Miscellaneous Plan Application or a Special Development Permit. The Director of Community Development may approve earlier business hours as deemed appropriate.
  - a. Special events shall require approval of a Miscellaneous Plan Application at least 10 days prior to the event. Special events include outdoor live entertainment, additional outdoor retail, and outdoor festivals and similar uses which attract greater than 50 people.
3. Submit a detailed garbage disposal plan to Director of Community Development for review and approval.
4. Outdoor furniture shall be of durable material such as metal or concrete (no plastic). Cloth and other materials (which fade or weather) shall be replaced at least every five years.
5. Within 10 days of the July 13, 2004, City Council meeting the Planning Division will prepare a Special Development Permit Document listing all conditions of approval for this project. The property owner must obtain three copies of the document, sign them in the presence of a Notary Public and return them to the Planning Division. This action must be completed prior to issuance of a Building Permit.

6. The conditions of approval shall be reproduced on the first page of the plans submitted for Building Permits. Indicate where each condition is met within the plan set.
7. Any major site and architectural plan modifications shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing before the Planning Commission, except that minor changes of the approved plans may be approved administratively by the Director of Community Development.
8. The landscape and irrigation plans shall be submitted to the Director of Community Development for approval prior to issuance of a Building Permit. Landscaping shall be planted and the irrigation system installed prior to occupancy. The landscape plan shall include the following elements:
  - a. Provide separate water meters for domestic and irrigation systems.
  - b. Ground cover shall be planted so as to ensure full coverage eighteen months after installation.
  - c. All areas not required for parking, driveways or structures shall be landscaped.
  - d. Of all new planting, 70% shall be water wise varieties.
  - e. Of new trees installed, a minimum of 10% shall be 24-inch box size or larger and no tree shall be less than 15-gallon size.
9. Submit exterior lighting plan, including fixture and pole designs, for approval by the Director of Community Development prior to issuance of a Building Permit. Driveway and parking area lighting shall include the following:
  - a. Sodium vapor (or illumination with an equivalent energy savings).
  - b. Provide photo cells for on/off control of all security and area lights.
  - c. All exterior security lights shall be equipped with vandal-resistant covers.
  - d. Wall packs shall not extend above the roof or parapet of the building.
  - e. Wall packs shall not be placed on the roof of the building.
  - f. All exterior lighting shall not cast surface illumination beyond the project boundary. Commercial lighting shall not cast glare on the residential portion of the project.
  - g. All detached and attached spot and flood lighting fixtures shall be shielded to prevent exposure to surrounding public vantage points, and glare or overcast of illumination on to adjacent public areas,

streets, residential areas, and private properties surrounding the use.

- h. The height of the light poles shall be 15 feet.
- 10. Bicycle parking shall be provided per VTA Guidelines.
- 11. Obtain approval of a Master Sign Program from the Director of Community Development.
- 12. Consult with the Crime Prevention Division of the Public Safety Department for crime prevention measures appropriate to the proposed development prior to issuance of a Building Permit. Incorporate features recommended by crime prevention or explain why the features cannot be incorporated, subject to review and approval of the Director of Community Development.
- 13. Obtain a Development Permit from the Department of Public Works for all proposed off-site improvements.
- 14. Any proposal for telecommunication antennas shall conform to the Sunnyvale Municipal Code (Chapter 19.54). At no time shall telecommunication antennas including dish antennas be visible above the roof parapet. All antennas shall be camouflaged and incorporated into the design of the buildings except for those exempt by the Municipal Code.
- 15. Provide publicly visible artworks in accordance with Sunnyvale Municipal Code (Chapter 19.52) by provision of art. Artwork locations shall be approved by the Director of Community Development. If an artwork application has not been submitted prior to issuance of a Building Permit, applicant shall provide a bond equal to 1% of the construction cost of the commercial portion of the site, or the estimated cost of the artwork, whichever is greater, to ensure satisfaction of this requirement.
- 16. Comply with the art in private development requirements as noted in Sunnyvale Municipal Code 19.52 for art approval, installation and maintenance including the following requirements:
  - a. Developers must allocate an amount for artwork equal to one percent of the construction valuation of the project, based on the building permit valuation provided by the chief building official. In the event of multi-phased development, valuation shall be based on the cost of all phases, even though all phases may not be completed at the same time.
  - b. No building permit will be issued for any building, expansion, or portion thereof, pursuant to Sunnyvale Municipal Code section

19.52.060 until a permit for required artwork has been issued pursuant to Sunnyvale Municipal Code section 19.52.060.

17. A bond, letter of credit, cash deposit or other similar security instrument for 1% of the construction valuation of the development project will be required prior to applying for a building permit. The bond will not be released until completion and installation of the artwork requirement including related landscaping, lighting, base work and commemorative plaque.
18. Out-of door loudspeakers shall be prohibited.
19. No vehicles or trailers shall be advertised for sale or rent on the site and no vehicle sales, leasing or rentals shall be conducted at the site.
20. No inoperable vehicles shall be stored out-of-doors at the site for more than 24 hours.
21. Any awnings shall be replaced at least every five (5) years. Any change of color, materials or design shall be submitted to the Director of Community Development for approval.
22. Provide trash enclosure that is a minimum of 6 feet high and enclosed on all four sides, of a design, approved by the Director of Community Development and a location approved by the Director of Public Works prior to issuance of a Building Permit. Install enclosure prior to occupancy.
  - a. The enclosure shall match the design, materials and color of the main building.
  - b. All exterior trash shall be confined to approved receptacles and enclosures.
23. Any proposed fencing and/or walls are subject to approval as to design and location by the Director of Community Development.
  - a. Jointly install and maintain an 8-foot solid, decorative masonry wall, measured from the highest adjoining grade, of a design approved by the Director of Community Development along the south property line. Wherever there is a grade differential, a concrete or masonry retaining wall shall be installed. Gate for pedestrian access is required.
  - b. Provide gate access to adjacent residential on the south side.
24. All existing on-site, existing street frontage and proposed overhead utilities shall be undergrounded prior to occupancy of either commercial or residential site.



- a. A copy of an agreement with affected utility companies for undergrounding of existing overhead utilities which are on-site or within adjoining rights-of-way shall be provided to the Director of Community Development prior to issuance of a Building Permit or a deposit in an amount sufficient to cover the cost of undergrounding shall be made with the City. Undergrounding shall include above-ground transformers and other utility boxes.
25. No unenclosed storage shall be allowed including materials and equipment.
26. The applicant shall contact the City's Environmental Division prior to issuance of a Building Permit regarding water pollution control measures (related to sanitary sewer and storm discharge) to be incorporated into the project construction, design and operation. Incorporate features recommended by the environmental division or explain why the features cannot be incorporated, subject to review and approval of the Director of Community Development
27. Certified Stormwater plans must be recorded with the property deed. The owner is responsible for maintaining the stormwater BMPs
28. Obtain approval of and record a Lot Line Adjustment prior to issuance of a Building Permit approved site plans.
29. If the commercial and residential aspects of the site are developed at the same time, there will be no Traffic Impact Fee. However, if the gas station continues to operate when the residential site is ready for occupancy, then the project shall include a Traffic Impact Fee. The fee amount is determined based on the City's adopted fee schedule in place at the time the Traffic Impact Fee is paid. Payment of Fee is required prior to issuance of a Building permit.
30. Construction activities may be phased separately for the commercial and residential properties. However, no occupancy permits will be issued until public utilities have be underground for the entire site.
31. Tree canopies must provide a minimum of 50% parking lot shading at 15 years.

**B. Conditions of Approval Specific to Residential**

1. Individual air conditioning units, if to be used, shall not be window mounted and shall be screened from view from within the project and from adjacent streets.
2. Five percent of uncovered residential parking spaces shall be designated as guest parking spaces. All guest parking spaces shall be reserved and designated for the exclusive use of guests and shall be so marked. No

vehicle owned or operated by a resident shall be parked in a guest space.

- a. Indicate all guest parking spaces on plans. Such spaces shall be clearly designated prior to occupancy in a manner approved by the Director of Community Development.
  - b. No parking space shall be offered for rent by the property owners or homeowners association.
  - c. All parking spaces shall be maintained at all times so as to allow parking of one automobile per space.
3. Unenclosed storage of any vehicle intended for recreation purposes, including land conveyances, vessels and aircraft, but excluding attached camper bodies and motor homes not exceeding 18 feet in length, shall be prohibited on the premises.
4. Bicycle parking shall be provided per VTA Guidelines.
5. Deviations from the Precise Plan for El Camino Real which requires R-3 Zoning standards for residential development are authorized in accordance with and as reflected by the specific plans and conditions as maybe approved by City Council, as follows
  - a. Allow only 20 feet between buildings, where 26 feet is required.
  - b. Allow three stories proposed where only 2 stories allowed
  - c. Allow height of 34 feet where only 30 feet is allowed for R-3 Zoning
  - d. Allow Housing Density only 16.3 du./ac. instead of the design requirement of 24 du./ac (or 75% minimum of 18 du./ac.)
  - e. Allow rear yard setback of only 15 feet, where 20 feet is required.
  - f. Allow driveway width of only 20 feet where 24 feet is required.
  - g. Allow parking space #11 to encroach into the 15 feet front setback area.
6. Within 10 days of the July 13, 2004, City Council meeting the Planning Division will prepare a Special Development Permit Document listing all conditions of approval for this project. The property owner must obtain three copies of the document, sign them in the presence of a Notary Public and return them to the Planning Division. This action must be completed prior to issuance of a Building Permit.
7. The conditions of approval shall be reproduced on the cover page of the plans submitted for Building Permits. Indicate where each condition is met within the plan set.
8. Any major site and architectural plan modifications shall be treated as an amendment of the original approval and shall be subject to approval

at a public hearing before the Planning Commission, except that minor changes of the approved plans may be approved administratively by the Director of Community Development.

9. Certified Stormwater plans must be recorded with the property deed. The owner is responsible for maintaining the stormwater BMPs.
10. The landscape and irrigation plans shall be submitted to the Director of Community Development for approval prior to issuance of a Building Permit. Landscaping shall be planted and the irrigation system installed prior to occupancy. The landscape plan shall include the following elements:
  - a. Provide separate water meters for domestic and irrigation systems.
  - b. Ground cover shall be planted so as to ensure full coverage eighteen months after installation.
  - c. All areas not required for parking, driveways or structures shall be landscaped.
  - d. Of all new planting, 70% shall be water wise varieties.
  - e. Of new trees installed, a minimum of 10% shall be 24-inch box size or larger and no tree shall be less than 15-gallon size.
  - f. Provide Cherry trees at strategic points on the site to reflect the agricultural history of the site.
11. Submit exterior lighting plan, including fixture and pole designs, for approval by the Director of Community Development prior to issuance of a Building Permit. Driveway and parking area lighting shall include the following:
  - a. Sodium vapor (or illumination with an equivalent energy savings).
  - b. Provide photo cells for on/off control of all security and area lights.
  - c. All exterior security lights shall be equipped with vandal-resistant covers.
  - d. Wall packs shall not extend above the roof or parapet of the building.
  - e. Wall packs shall not be placed on the roof of the building.
  - f. All exterior lighting shall not cast surface illumination beyond the project boundary.
  - g. All detached and attached spot and flood lighting fixtures shall be shielded to prevent exposure to surrounding public vantage points, and glare or overcast of illumination on to adjacent public areas, streets, residential areas, and private properties surrounding the use.

- h. The height of the light poles shall be 15 feet.
- 12. Obtain a Development Permit from the Department of Public Works for all proposed off-site improvements.
- 13. Out-of door loudspeakers shall be prohibited.
- 14. Provide a centralized trash and recycling enclosure that is a minimum of 6 feet high and enclosed on all four sides, of a design, approved by the Director of Community Development and a location approved by the Director of Public Works prior to issuance of a Building Permit. Install enclosure prior to occupancy.
  - a. The enclosure shall match the design, materials and color of the townhomes.
  - b. All exterior trash shall be confined to approved receptacles and enclosures.
- 15. Any proposed fencing and/or walls are subject to approval as to design and location by the Director of Community Development.
  - a. Jointly install and maintain a 8-foot solid, decorative masonry wall, measured from the highest adjoining grade, of a design approved by the Director of Community Development along the north property line. Wherever there is a grade differential, a concrete or masonry retaining wall shall be installed.
  - b. Provide a gate to allow pedestrian access to adjacent retail on the north side.
  - c. Install and maintain a 6-foot solid, decorative masonry wall, measured from the highest adjoining grade, of a design approved by the Director of Community Development along the west and south property lines. Wherever there is a grade differential, a concrete or masonry retaining wall shall be installed.
  - d. Provide a gate to allow pedestrian access to adjacent Municipal Tennis Center on the south side of property.
- 16. All existing on-site, existing street frontage and proposed overhead utilities shall be undergrounded prior to occupancy of either commercial or residential site.

- a. A copy of an agreement with affected utility companies for undergrounding of existing overhead utilities which are on-site or within adjoining rights-of-way shall be provided to the Director of Community Development prior to issuance of a Building Permit or a deposit in an amount sufficient to cover the cost of undergrounding shall be made with the City. Undergrounding shall include above-ground transformers and other utility boxes.
17. No unenclosed storage shall be allowed including materials and equipment.
18. Construction activities may be phased separately for the commercial and residential properties. However, no occupancy permits will be issued until public utilities have been underground for the entire site.
19. The applicant shall contact the City's Environmental Division prior to issuance of a Building Permit regarding water pollution control measures (related to sanitary sewer and storm discharge) to be incorporated into the project construction, design and operation. Incorporate features recommended by the environmental division or explain why the features cannot be incorporated, subject to review and approval of the Director of Community Development
20. The CC&Rs should include a disclosure statement on the potential impacts from the adjoining use. Future homeowners should be notified in advance they are purchasing property adjacent to a highly used public park and retail center and there will be associated noise, pedestrian and vehicle traffic, night lighting, etc. in association with the use of the neighboring public property and retail site to the north.
21. A certified noise consultant shall verify noise levels do not exceed allowable levels as listed in the Noise Sub-Element of the City of Sunnyvale's General Plan. Verification shall be completed and supporting documents provided to the Director of Community Development prior to occupancy of the site.
22. If the commercial and residential aspects of the site are developed at the same time, there will be no Traffic Impact Fee. However, if the gas station continues to operate when the residential site is ready for occupancy, then the project shall include a Traffic Impact Fee. The fee amount is determined based on the City's adopted fee schedule in place at the time the Traffic Impact Fee is paid. Payment of Fee is required prior to issuance of a Building permit.
23. Tree canopies must provide a minimum of 50% parking lot shading at 15 years.
24. Below Market Rate (BMR) Units:

- a) Comply with Below Market Rate Housing (BMR) requirements as noted in SMC 19.66.
- b) The project will provide 5 Below Market Rate ownership dwelling units in compliance with SMC 19.66.
- c) The developer shall submit a site plan to the Housing Officer for review. The plan will include a description of the number, type, size and location of each unit on the site. The Housing Officer will then determine the specific units to be obligated as Below Market Rate (BMR) unit(s). (BMR Administrative Guidelines)
- d) Prior to issuance of a building permit, the developer shall execute a Development Agreement with the City to establish the units. The rental/sale price of the BMR unit(s) is established at the time of the execution of the Development Agreement. (BMR Administrative Guidelines)
- e) All BMR dwelling units shall be constructed concurrently with non-BMR units, and shall be dispersed throughout the property and shall reflect the range in numbers of bedrooms provided in the total project and shall not be distinguished by exterior design, construction or materials. (SMC 19.66.020(c))
- f) Sixty days (60) days prior to the estimated occupancy date, the developer shall notify the Housing Division of the BMR units to be available. (BMR Administrative Guidelines)
- g) BMR Ownership Program - Developer and Buyer to execute "Addendum to Purchase Offer" prior to Occupancy Permit and provide copy to City. (BMR Administrative Guidelines)
- h) Ownership Units - Prior to Close of Escrow, a Deed of Trust between the City and the Buyer of the BMR unit shall be recorded to establish resale and occupancy restrictions for a 30-year period.
- i) The original sale price of BMR dwelling units shall comply with sales prices established by the City, which is revised annually. (SMC 19.66.040 (c))
- j) Below Market Rate dwelling units shall be offered for sale only to persons qualified under the terms described in SMC 19.66.040 and 19.66.050 and described more fully in the Administrative Guidelines. (BMR Rental Units / BMR Ownership Program)
- k) Resale of BMR dwelling units shall comply with procedures set forth in SMC 19.66.060.
- l) In the event of any material breach of the Below Market Rate Program requirements and conditions, the City may institute appropriate legal

actions or proceedings necessary to ensure compliance. (SMC 19.66.140)

- m) In the event that any of the Below Market Rate dwelling units or a portion thereof is destroyed by fire or other cause, all insurance proceeds therefrom shall be used to rebuild such units. Grantee hereby covenants to cause the City of Sunnyvale to be named additional insured party to all fire and casualty insurance policies pertaining to said assisted units. (BMR Administrative Guidelines)

25. Structural soil shall be place in the Gazebo area located at the southwestern corner of the residential site to support the development of the trees.

### **Recommended Conditions of Approval - Tentative Map**

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#### **A. Planning Division**

1. The Tentative Map shall be valid for a period of two years, measured from the date of approval by the final review authority.
2. The Tentative Map shall be applicable only in conjunction with all other steps of this application completed, including:
  - i. Adoption of the Mitigated Negative Declaration;
  - ii. Approved resolution to annex the land to the City of Sunnyvale;
  - iii. Approved resolution to cancel the Williamson Act and de-establish the Agricultural Preserve;
  - iv. Approval of a Special Development Permit; and
  - v. Approval of a lot line adjustment that divided APN 201-22-010 as proposed in this report.
3. Building Permits for the lot or lots within a recorded Final Map may be issued only in accordance with a valid Special Development Permit.
4. Any proposed Deeds, Covenants, restrictions and By-Laws relating to the subdivision shall be submitted for review and approval by the Director of Community Development and the City Attorney.
5. At the expense of the subdivider, City forces shall install such street trees as may be required by the Public Works Department.
6. Complete Annexation to the City prior to action on the Final Map.

7. Complete cancellation of Williamson Act and dis-establishment of Agricultural Preserve prior to action on the Final Map.
8. Prior to final approval of the Final Map by the Director of Public Works, the "In-Lieu Park Dedication Fee" shall be paid in accordance with MCS 18.10. Park Dedication Fee is \$4,851.50 per unit. The Park Dedication Fee for this 36 unit project will be a total of \$174,654.00. Pay park in-lieu fees prior to issuance of Building Permits.

**B. Building Safety Division**

1. Obtain Grading Permits as required (MCS 16.12.010).
2. Provide soils report prepared by a licensed soils laboratory (Res. 193-76).
3. Seal and cap all septic tanks and irrigation systems in accordance with Building Safety regulations.

**C. Public Works**

1. Record a Final Map.
2. Curbs, gutters, sidewalks, streets, utilities, traffic control signs, electroliers (underground wiring) shall be designed, constructed and/or installed in accordance with City standards prior to occupancy. Plans shall be approved by the Department of Public Works.
3. Connect to all City utilities or private utilities operating under a City franchise which provides adequate levels of service.
4. Obtain Public Works approval of plans for utility line extensions, utility connections, meter locations, driveways, sidewalks, etc.
5. The on-site drainage and sanitary sewer systems shall be privately owned and maintained. The fire and domestic water systems shall be privately owned and maintained beyond the meter.
6. Individual water services and meters shall be provided to each lot.
7. Construct all public improvements prior to occupancy.
8. Existing and proposed on-site and street frontage electrical, telephone and cable TV services shall be placed underground or removed prior to occupancy (MC 19.46.060).
9. Post labor/material bond and faithful performance bond for the full cost of all off-site public improvements (MCS 12.08.020).



10. Developer shall enter into a Subdivision Agreement and post bonds for all off-site work prior to action on Final Tract Map.
11. Dedicate public utility easements at lot frontages as required by the utility companies.
12. Installation of the water system shall conform to City standards and shall be part of the City (or franchised utility) system up to the master water meter serving the project. The water system shall be privately owned and maintained beyond the meters.
13. The Final Map dedication shall include six foot landscape easement and ten-foot PUE's on the entire frontages of Mathilda and El Camino Real.
14. File a Notice of Intent (NOI) with the regional water board and prepare a SWPPP.
15. Adequate storm drainage plans are required pursuant to City-imposed Standard Development Requirements.
16. Dispersed storm water should be directed into the landscape.
17. CalTrans permit must be obtained for all work affecting the State Highway, including: project access, right-of-way, and storm drainage related issues.

**D. Fire Prevention**

1. Comply with the Sunnyvale Fire Prevention Code (MC 2099-84; Title 19 of Calif. Admin. Code Sec. 1.12(l); UFC 1982 Edition).
2. The water supply for fire protection and fire fighting systems shall be installed and operational prior to any combustible construction on the site (MC 16.52.170).

**E. Other Public Agencies**

1. Pay School Tax fees prior to issuance of a Building Permit.